

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF MASSACHUSETTS**

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FIDELITY AND GUARANTY INSURANCE  
COMPANY,

Plaintiff

v.

CIVIL ACTION NO.:  
04-10250-EFH

STAR EQUIPMENT CORPORATION,  
CHARLENE B. FORAN, JOHN J. FORAN,  
and TOWN OF SEEKONK,

Defendants.

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**FINDING OF FACTS AND ORDER**

April 5, 2007

HARRINGTON, S.D.J.

After oral arguments and consideration of submissions by the parties, Plaintiff Fidelity and Guaranty Insurance Company (“F&G”) and Defendants Star Equipment Corporation, Charlene B. Foran, and John J. Foran (“Star Equipment”), on March 26, 2007, the Court allowed Plaintiff’s Motion for Summary Judgment on the issue of liability resulting from a General Agreement of Indemnity executed by Star Equipment in 2003.

An evidentiary hearing for damages took place on April 2, 2007. The Court rules on that hearing as follows:

As stipulated by the parties in Plaintiff’s Exhibit 1, Defendant Star Equipment is liable for payments of \$24,229.05 made by F&G to Public Works Supply Company, resulting from a payment bond issued by F&G as surety on behalf of Star Equipment, and for \$50,000.00 paid by F&G to Seekonk in January 2007, pursuant to the terms of the settlement agreement that was

enforced by the Court. According to Exhibit 1, Defendant Star Equipment is also liable for \$37,084.38 incurred by F&G in the form of attorneys' fees and expenses under the terms of the General Agreement of Indemnity. It is noted that Defendant Star Equipment released a cross-claim against the Town of Seekonk for approximately \$41,000 in reducing its overall liability. However, that claim cannot legally be considered in the current damages analysis because the defendant dropped such claim in the Settlement Memorandum of Understanding following mediation on March 4, 2006.

Therefore, the total damages assessed against the Defendants Star Equipment Corporation, Charlene B. Foran and John J. Foran are \$111,313.43, plus costs and interest.

SO ORDERED.

/s/ Edward F. Harrington  
EDWARD F. HARRINGTON  
United States Senior District Judge